

#38047117

ID88047598

TA
622
WES53
1991

A HISTORY OF THE PUBLIC LANDS SURVEY LEGISLATION

By
Doug Wilcox

U.S. Department of the Interior
Bureau of Land Management
Service Center
Branch of Cadastral Survey Development
Denver, Colorado 80225-0047

November 1991

BLM LIBRARY
RS 150A BLDG. 50
DENVER FEDERAL CENTER
P.O. BOX 25047
DENVER, CO 80225



A HISTORY OF THE PUBLIC LANDS SURVEY LEGISLATION

By Doug Wilcox

Service Center
Branch of Cadastral Survey Development
Denver, Colorado 80225-0047



U. S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management

November, 1991

BLM LIBRARY
RS 150A BLDG. 50
DENVER FEDERAL CENTER
P.O. BOX 25047
DENVER, CO 80225

BLM LIBRARY
RS 150A BLDG. 23
DENVER FEDERAL CENTER
P.O. BOX 25047
DENVER, CO 80225

INTRODUCTION

In recent years, Bernard W. Hostrop, former Chief, Division of Cadastral Survey of the Bureau of Land Management, has sponsored the writing of several surveying history books. These books were *SURVEYS AND SURVEYORS OF THE PUBLIC DOMAIN 1785-1975* by Lola Cazier and *A HISTORY OF THE RECTANGULAR SURVEY SYSTEM* by C. Albert White. Recently, the need to publish a personalized history including the Congressional debates and accompanying background information of this same era was created. This information is to include the interests, if any, of the U.S. President, the names of sponsors and opponents of legislation, and the national and sectional interests which may have affected the issues debated. This will provide the reader with some of the reasons why surveying legislation was enacted during the long history of the development of the public land survey system. To aid in the reading of this book, the reader should know that in the congressional record, Senators and Congressmen are referred to as Mr. There was no record found of any female senator or congressperson who offered survey legislation for debate in the congress. Although twenty-eight congressional acts were researched, this book contains only a partial list of the many public land bills enacted because there is an absence of information in the congressional sources researched. The author is convinced that a more exhaustive search would recover more proposed bills.

ACKNOWLEDGEMENTS

The author wishes to thank the following people for their much appreciated help in his research for this book. They were Adrian Caufield and Ron DeRamus of the Bureau of Land Management(BLM), Bob Coren of the National Archives, and Silvio Bedini of the Smithsonian Institution. The author is grateful to the library research staffs of the BLM Main Interior and Law library, and to the library research staff of the Government Publications Department of the Denver, Colorado Public Library. A special thanks is given to Mrs. Terry Day of the BLM Denver Service Center library for her assistance and encouragement, and to Herman Weiss for his efforts with desk top publishing this document. A final thanks goes to my wife, Laura, for her support and patience in listening to the many history lessons her husband gave her as he uncovered the gems of truth in his research.

CONTENTS

CHAPTER I The Period 1785-1796

Introduction to Period	9
Presidential Interest	9
George Washington	9
Legislative Activities	9
Speakers of the House of Representatives Interest	9
Land Ordinance of 1785	9
President of the Continental Congress Interest	10
Secretary of the Continental Congress Interest	10
Delegates Interests	10
Land Act of 1786	11
Western Territory Becomes Northwest Territory	11
Delegate Interest	11
Summary	12

CHAPTER II The Period 1796-1812

Introduction to Period	13
Presidential Interests	13
John Adams	13
Thomas Jefferson	13
James Madison	13
Legislative Activities	14
Speaker of the House of Representatives Interests	14
Land Act of 1800	14
Senate Members Interests	15
Land Act of 1801	15
House Members Interests	15
Land Act of 1805	15
House Member Interests	16
Land Act of 1806	16
Senate Member Interest	16
Summary	16

CHAPTER III The Period 1812-1836

Introduction to Period	17
Presidential Interests	17
James Monroe	17
Andrew Jackson	17
Legislative Activity	17
Speaker of the House of Representatives Interests	17

CONTENTS cont'd

CHAPTER III cont'd The Period 1812-1836

Land Act of 1815	18
House Member Interest	18
Creek Indian Lands Resolution of 1815	19
House Members Interests	19
National Observatory Resolution of 1815	19
House Member Interest	20
Land Acts of 1818	20
House Member Interest	20
Senate Member Interest	20
House Member Interest	20
Land Acts of 1820	20
House Members Interests	21
Senate Member Interest	22
Graduation Bill of 1830	22
House Member Interest	23
Summary	23

CHAPTER IV The Period 1836-1849

Introduction to Period	25
Presidential Interests	25
Martin Van Buren	25
John Tyler	25
James Knox Polk	25
Legislative Activity	26
Speaker of the House of Representatives Interest	26
Resolution to Suspend the General Rule Attempt of 1836	26
Senate Members Interests	26
Land Act of 1840	27
Senate Member Interest	27
Land Act of 1841 Amendment Attempt	27
Senate Members Interests	28
General Land Office Document 104 Resolution Attempt of 1841	28
Senate Member Interest	28
Summary	29
References	29

CHAPTER I The Period 1785-1796

INTRODUCTION TO PERIOD

The period began with the passage of the Land Ordinance Act of 1785 which authorized the start of the land surveying of the public lands. This effort ultimately established the Public Land Survey System(PLSS). The period ends with a treaty, signed at Greenville, Ohio on August 3, 1795, which gave title to the United States for about three-fourths of the present state of Ohio and a small part of Indiana(4)

PRESIDENTIAL INTEREST

There was only one U.S. President in this period, President George Washington of Virginia. He served from 1789-1797 and was leader of the Federalist party. George Washington had a personal interest in the passage of Public Lands surveying legislation. He was a skilled surveyor, but not known to be a fluent spokesman. It is believed that he asked a fellow Virginian, Thomas Jefferson, to bear the heaviest burden for the drafting of the Land Ordinance of 1785 and the Northwest Territory Ordinance of 1787. George Washington was aware that pioneers in the lands of Tennessee, Kentucky and Ohio, who were the producers of much needed grain, lumber and meats for Colonial America, sought good titles to their farmlands.(1)

LEGISLATIVE ACTIVITY

-Speakers of the House of Representatives Interests

Jonathan Trumbull, speaker of the House from 1791-1794, was a staunch Federalist. Speaker Trumbull was the secretary to General George Washington and strongly opposed the national policies of Thomas Jefferson's administration(1).

Jonathan Dayton, speaker of the House during Period I and Period II from 1795 to 1799, was a personal friend of Aaron Burr. After Burr had killed Alexander Hamilton in a duel, he fled to Philadelphia, Pennsylvania where he met Jonathan Dayton who by this time was a former Senator from New Jersey. Dayton and Burr developed a scheme which would, if successful, create a vast empire in the West and South based on the conquest of Mexico and the separation of the Appalachian states from the union. Burr acquired title to more than a million acres of land in Orleans Territory. In the investigation that followed, a young Henry Clay was Burr's attorney. Jonathan Dayton was betrayed by Burr, arrested, and found guilty of treason(1). Jonathan Dayton speculated in land purchases near Dayton, Ohio, and the town was named after him (5)

-Land Ordinance of 1785

The first public lands survey legislation enacted into law by the delegates of the Continental Congress was first read on Friday, May 20, 1785 and was then passed into law without change on June 13, 1785. This act was entitled," An Ordinance For Ascertaining the Mode of Disposing of Lands in the Western Territory."

This marked the beginning of the federal, legal boundary survey program which continues to our present time. This law authorized the Office of Geographer of the United States and the appointment by Congress of surveyors from each state. Under the law, the surveyors would take their direction from the Geographer of the U.S. This established a system by which the public lands would be divided into townships 6 miles square, and the townships would be divided into 36 sections of more or less 640 acres. Originally, the land was to cost \$1 an acre and was to be sold in lots of not less than 640 acres(1).

The Land Ordinance was modified many times before its final form. At the reading of the bill in the Congress there was doubt as to its final passage due to a debate over the land rights of the United States in the Western territory of lands ceded to the United States by the State of North Carolina. The issue was over the conditions of the deed to the United States from North Carolina. A committee consisting of Rufas King of Massachusetts, William Samuel Johnson, William Grayson of Virginia, William Ellery of Rhode Island, and James McHenry was established to debate the issues of the clouded deed. During the debate on the deed, a motion was made on postponing the consideration of the bill by Charles Pickney of South Carolina and seconded by William Grayson. They felt it improper for Congress to interfere respecting the cession by North Carolina of their Western territory for the use of the United States. The vote on postponement did not carry. There were 14 no's and 7 ayes so the question was lost. There was continued debate on the Land Cession report with an attempt made by Rufas King to have the delegates agree on each paragraph of the report. The delegates finally agreed to the last paragraph and issued a resolution directing the delegates from North Carolina to furnish new proof of their "liberality" in the execution of the deed of the territory ceded (3).

-President of the Continental Congress Interest

The President of the Congress was Richard Henry Lee of Virginia. PresidentLee was a poor businessman. Because it was easy to engage in land speculation, it is believed that he wanted this bill enacted so that he would be successful in his Western Lands speculations(3).

-Secretary of the Continental Congress Interest

The Secretary of the Continental Congress was Charles Thomson of Pennsylvania.Thomson was the leader of the merchants, mechanics and tradesmen opposed to British policies. It is the author's view that he wanted the Western Lands surveyed so that settling it would give more opportunities for work to his hard pressed friends in the trades. Thomson served from 1774 to 1789 as the "perpetual secretary" to Congress, and never received any office in President Washington's later administration(3)

-Delegates Interests

Nothing more is known of William Samuel Johnson or James McHenry. It is also known that Charles Pickney was from South Carolina. William Ellery was famous for his outstanding committee work(1).

William Grayson was an antifederalist and supported Thomas Jefferson's policies. Grayson was known to strongly support Southern land interests and his reason for supporting North Carolina in this debate was the question of the states rights of North Carolina. Later he helped secure passage of the Northwest Ordinance of 1787(1).

Rufas King took part in the framing of the federal constitution and was the Federalist candidate for the Vice President in 1804 and 1808 and for President in 1816(1).

-Land Act of 1786

The Continental Congress passed the following resolution on Tuesday, May 9, 1786: "That the Geographer of the United States, and the surveyors appointed pursuant to the ordinance of Congress, passed May 20, 1785, for ascertaining the mode of disposing of lands in the Western Territory, and who have accepted their appointments, proceed in the execution of said ordinance provided that they do not proceed further northerly than the East and West line mentioned in the said ordinance." The Land Ordinance of 1785 directs the survey to begin at the initial point of the public lands surveys in Ohio. The Act of 1786 was an order issued by the Continental Congress to begin the Seven Ranges project(4). The delegate who proposed this motion was Nathan Dane of Massachusetts, and it was seconded by Rufas King(3).

-Western Territory Becomes Northwest Territory

The Western Territory of 1786 became the Northwest Territory by an act of the Continental Congress in July 1787 entitled, "The Territory Northwest of the River Ohio." It consisted of the region West of the State of Pennsylvania between the Ohio and the Mississippi rivers. During the American Revolution, land in this area was claimed by four states. They were Massachusetts, Connecticut, Virginia, and New York. Most states based their demands on Colonial Charters that gave them boundaries westward to the sea. Those states without western claims argued that all such lands should be ceded to the central government, and the land used for the common good. Most of the land northwest of the Ohio was ceded to the central government from 1781 to 1786, although Virginia and Connecticut retained areas to grant to their own citizens. The first surveys were made in what is now eastern Ohio in 1785 and public land went on sale in 1787(1).

-Delegate Interest

Nathan Dane helped draft the Northwest Ordinance of 1787. He claimed credit for authoring this ordinance which was adopted by the Continental Congress and provided for the administration of the public domain northwest of the Ohio river. The motion made by Dane was originally offered May 3, 1786. There were changes made by Charles Thomson before the ordinance was brought to its final form (1).

SUMMARY

For Period I there were three bills researched in the congressional record. One bill in which the Continental Congress ordered the first four ranges surveyed in Ohio to be sold at auction in New York City was not found(4). This was a disappointment. The main supporter of surveying legislation during the period was President Washington. It is believed that his interest was caused primarily by the federal government's need for money. The sale of public land was one of the few sources of money for the new United States government. A second reason was professional since he was a surveyor. The acts described are the foundation stones in the building of the Public Land Survey System structure in 30 states over the past 200 plus years.

The bills enacted into law and discussed in this paper were the Land Ordinance of 1785 and the Land Act of 1786.

CHAPTER II

INTRODUCTION TO THE PERIOD

The period began with the enactment of the Land Act of May 18, 1796. This act provided for the appointment of a Surveyor General, the use of skillful surveyors as deputies, and the renumbering of the sections in their present form. It ends with the creation of a new government bureau within the Treasury Department called the General Land Office (GLO). This was accomplished by passage of the Act of April 25, 1812(4)

PRESIDENTIAL INTEREST

-John Adams

President Adams of Massachusetts, member of the Federalist party, served from 1797 to 1801. He was a lawyer and not trained in surveying, but he was interested in extending the American Territory as far west as possible. This intent was indicated in the wording of the Treaty of Paris, which he helped draft, and which ended the War of Independence(1).

-Thomas Jefferson

President Thomas Jefferson of Virginia, founder of the Democratic party, which was then called Republican or Democratic-Republican, served from 1801 to 1809. Thomas Jefferson's concern for the land tenure system in Colonial America had existed since his service in the Virginia legislature from 1776-1779. During this time, he succeeded in ridding the state land tenure system of the medieval European practices of entail and primogeniture(1). Entail is a legal term which limits the inheritance of real property to certain heirs. Primogeniture, also a legal term, gives the exclusive right of the eldest son to inherit his father's estate(9). He was well known in the Williamsburg, Virginia House of Burgesses, as an effective committeeman and skilled drafter of legislation. With the political support of George Washington and the surveying influence of his father, Peter Jefferson, the public lands surveying legislation got off to a good beginning. Peter Jefferson was famous in Colonial America as a surveyor and map maker. Thomas Jefferson assisted in the passage of the Northwest Ordinance of 1787(1).

-James Madison

President James Madison of Virginia served from 1809 to 1817. He was influenced greatly by other members of the Madison family who speculated in lands in Kentucky during the American Revolution. James Madison was considered a founder of the Democratic party and shared the views of Thomas Jefferson. These views were of a government sustained by the self reliance and virtue of a people in an agricultural economy with the benefit of public education and little interference by Federal government. Although James Madison lived all his life in Virginia as a planter with slaves, the Madison family speculated in land and considered themselves frontiersmen. They were always ready to go west as opportunity

beckoned. In public service James Madison had a reputation as an effective debater and legislator. He guided the negotiations to purchase Louisiana in 1803, and insisted on American ownership of the Gulf Coast between New Orleans and Florida. With the end of the War of 1812, the threats of disunion in the country ended and James Madison stimulated the economy by federal support for the construction of roads and canals. He believed this action would bind the country together. It is believed that James Madison made no personal, direct support of public lands law enactment, but the record does show in his last two years in office his willingness to support a return to American western expansion(1).

LEGISLATIVE ACTIVITY

-Speaker of the House of Representatives Interest

Nathaniel Macon from North Carolina, Speaker of the House from 1801 to 1807, opposed the Constitution. His belief was that it concentrated too much power in the central government. He was a leader among the Republicans in the House, a friend of Thomas Jefferson, and a foe of Alexander Hamilton and the Federalists(1).

-Land Act of 1800

This act established land offices, requirements for making multiple copies of plats and the subdivision of townships(4). The only congressional record of this bill is recorded on Saturday May 10, 1800. The Senate on this date took into consideration an amendment of the House to their amendments to a bill. The bill, under discussion, would enlarge the powers of the Surveyors of the Revenue. The Senate disagreed with the House. A message from the House informed the Senate that they insist on their amendment to the amendment of this bill. In addition, the House asked for a conference and the appointment of managers on their part. If a bill in the Senate differs from a House version, the bill is sent to a House-Senate conference for a compromise solution(1). The Land Bill of 1800 had attached to it amendments establishing the U.S. Mint as well as establishing a procedure to decide disputed elections for the President and Vice President. An amendment is a change in a legislative bill or law(9). Consequently, this important survey legislation depended on the approval of a legislative package consisting of a bill and two amendments to a bill and not just a bill for the surveying of the public lands. Because the public lands surveying program was located in the Treasury Department, it is believed that the combining of a request for establishing the U.S. Mint and for the surveying of the public lands was logical. The Senate agreed to the proposed conference on the amendment to the amendments to the bill and appointed Mr. Livermore and Mr. Lawrence as managers(6). The practice of attaching amendments to bills continues in the Congress to this day. This complicates researching the passage of historical bills through the Congress.

-Senate Members Interests

No personal history is known about Mr. Livermore or Mr. Lawrence.

-Land Act of 1801

On Wednesday, February 18, 1801, the House went into a Committee of the Whole on a bill to repeal the act, entitled 'An act to enlarge the powers of the Surveyors of the Revenue(6).' The Committee of the Whole is a committee of all members of the House under more informal rules than in a regular session(4). After sometime, the Committee rose and reported the bill without amendment. The purpose of this amendment was to direct the Surveyor General to subdivide the Military Reserve in Ohio(4). It is believed that the act was not repealed because current Cadastral Survey practice conforms to the intent of the Land Act of 1800 and not the repealed act of 1801. This repeal was a part of aact to provide for the valuation of lands and dwelling-houses, and also to provide a system for the counting of slaves within the United States.

-House Members Interests

Mr. Wilson Cary Nicholas of Williamsburg, Virginia was active in the congressional debate as a member of the committee on the part of the House. Mr. Nicholas was one of Thomas Jefferson's most influential supporters(1). Mr. Albert Gallatin was also a member of the committee on the part of the House in the debate over this bill. Gallatin was born in Switzerland and later was employed as a tradesman on the Maine frontier. After the Revolutionary War he moved to Fayette County, Pennsylvania, then a frontier area, where he speculated in land. He was the acknowledged spokesman of the Republicans in matters of finance which included public lands surveying legislation. He was the Minister to France and helped reach important agreements with Great Britain relative to the Canadian boundaries(1).

-Land Act of 1805

This third piece of major public lands surveying legislation was enacted Tuesday, February 5, 1805. This was a Senate bill sent to the House on Friday, Jan 25, 1805 entitled, "An Act Concerning the Mode of Surveying the Public Lands of the United States(6)." The intent of this bill was to establish the principle that public lands surveys are made to fix the corners and boundaries of these lands, and not the accuracy of their areas(4). The bill was reported by Mr. Gregg without amendment. It was ordered by the Speaker, Nathaniel Macon, that the bill be read the third time the next congressional session. This action indicated that the bill was ready for a congressional vote. Unfortunately, the congressional record does not indicate that a vote on this bill was taken the next session, but enactment of this bill into law shows that a favorable vote was eventually made. The Act of February 11, 1805 appears to be the final version of this bill. Its provisions have been codified in Title 43 of the United States Code. This is the Statute Law of the land and is a fundamental philosophy used in current public lands land tenure practice(4).

- House Member Interest

No additional information is known about Mr. Gregg.

-Land Act of 1806

The last major piece of legislation enacted by the Senate in this period was on Monday, April 21, 1806. This act provided for the appointment of Deputy Surveyors in the Orleans Territory(4). A message from the House informed the Senate that they had passed a bill sent to them by the Senate. It was entitled, "An Act Supplementary to an Act, and An Act for Ascertaining and Adjusting the Titles and Claims to Land Within the Territory of Orleans and the District of Louisiana." The House had attached to the bill an amendment in which they asked the concurrence of the Senate. The Senate proceeded to consider the amendment of the House to this bill and resolved that they agreed with the amendment. The Senate then returned the bill with amendment to the House. The House resolved itself into a Committee of the Whole on the bill and amendment, read them twice and agreed to them. The bill, as amended, was then read the third time in the Senate and passed by the Senate in the affirmative(6).

-Senate Member Interest

No managers were appointed for this bill, nor were there any apparent sponsors.

SUMMARY

For Period II there were eleven bills researched in the congressional record. Unfortunately, although the dates of the enactment of these bills were obtained by reference to C. Albert White's book(4), only four bills were found. It is believed that there were two major reasons why the other bills were not found. One reason was the custom of the Senate and House sponsors of attaching amendments to bills which had a good chance of being enacted by the Congress. Money requests for mandated programs, such as public lands sales, were an example of this kind of a bill. Since surveying supported land sales, surveying bills were important. Another reason was the congressional custom of reading each bill three times before voting on its worth. This caused a delay in the voting process when the House or Senate sent higher priority legislation for consideration.

The bills enacted into law and discussed in this paper were the Land Acts of 1800, 1801, 1805, and 1806. The author has tried to show how confusing the congressional record can be when amendments are attached to amendments which are then attached to bills. A definition has been given when legal terms were used.

CHAPTER III The Period 1812-1836

INTRODUCTION TO PERIOD

The period began with the appointment of Edward Tiffin of Virginia as the first Commissioner of the General Land Office(GLO) on May 7, 1812 and ended with the passage of the Act of July 4, 1836 which reorganized the GLO. This act gave more supervision and control to the Commissioner in the surveying and sale of public lands(4).

PRESIDENTIAL INTERESTS

-James Monroe

President James Monroe of Virginia assisted in the foundation of the Republican party and served from 1817 to 1825. James Monroe was a lawyer and lifelong friend of Thomas Jefferson. Thomas Jefferson, his teacher, had a major influence on his intellectual development. Monroe helped lay the groundwork for territorial government in his writings of the design for the Northwest Ordinance of 1787. He accepted, on approval by President Jefferson, the offer of sale of Louisiana from France to the United States. In 1803 this purchase became known as the Louisiana Purchase and established Monroe as a national figure. His administration made substantial territorial additions which included the ceding of Florida to the U.S. by Spain and the defining of the boundaries of Louisiana in 1819(1).

-Andrew Jackson

President Andrew Jackson of South Carolina served from 1829-1837. Andrew Jackson was a lawyer, a judge and a soldier. He was regarded by many as the symbol of the common man and as an equal to Jefferson in his efforts as an author of Democratic party ideology. Jackson recognized the independence of Texas(1). It is believed that his major interest in public lands legislation came from personal requests to him from Jacksonian party members. These members were recruited from all segments of American society, including western frontiersmen and farmers. They expressed their continued need for public land sales in an expanding western frontier population.

LEGISLATIVE ACTIVITY

-Speakers of the House of Representatives Interests

Langdon Cheves of South Carolina served from 1814 to 1815. In 1819, after leaving congress, Speaker Cheves became the president of the Second Bank of the United States. During the economic depression that followed, he reduced the number of land loans and also called in existing land loans which made western debtors suffer greatly(1). It is believed that this action resulted in the reduction of the money supply available for public lands sales and thus reduced the demand for public lands surveying.

Henry Clay of Kentucky served from 1811 to 1821 and from 1823 to 1825. Speaker Clay was a skilled orator and the leader of the Whig party. He disliked Indians, was hungry for land, and was known to be a war hawk. It was Clay's belief that the settlers of western territories preferred cheap lands over a general distribution of land revenues. Clay was against the democratization of the government's land policy. This placed him firmly on the side of vested interests. He believed change should come slowly, was a genius at compromise, and was active in land dispute law in Kentucky as a young man. His father-in-law, Col. Thomas Hart, was a land speculator. Henry Clay acquired much land himself, and was in close contact with land owners. The Whig party urged a conservative public lands sales policy. The name Whig came from a word of Scottish origin which was a cry to urge on horses(9). The Whigs advocated a nationalistic economic policy called the "American System", which was in opposition to the Jacksonian economic policy. The Jacksonians were later called Democrats(1).

Philip Pendleton Barbour of Virginia, served from 1821 to 1823. Speaker Barbour was also a Supreme Court Justice and an ardent state's rights supporter. He was one of the first to declare the right of a state to secede from the Union. Barbour advocated representation on the basis of property, and sided with the majority that opposed proportional representation for the settlers of Western Virginia(1).

John Bell of Tennessee was the Speaker for only one year in 1834. Speaker Bell was a member of the House for 14 years and believed that Congress had the right to prohibit slavery in the territories. At first Bell was a Jacksonian Democrat. He later became the leader of the Whig party in Tennessee(1).

-Land Act of 1815

This act allowed for the exchange of damaged lands for undamaged lands(4). On Friday, February 17, 1815, Mr. McKee from the House Committee on the Public Lands reported a bill which had been added to an act entitled, "An Act for the Final Adjustment of Land Titles in the State of Louisiana and Territory of Missouri." This bill was approved by the Public Lands Committee on April 12, 1814. The bill was read and committed to a Committee of the Whole. During this same session, a bill from the Senate to give further time to complete surveys and to locate patents for lands granted under Virginia resolution warrants was read for a third time and passed. To issue a patent to land is to open the land to the public for examination, and a warrant is a document giving the authorization to do something(9). This reveals the cooperative nature of the exchange of bills which occurs during the deliberations of either the House or the Senate(6).

-House Member Interest

No additional information is known about Mr. McKee.

-Creek Indian Lands Resolution of 1815

On Monday, February 20, 1815 the House debated a motion by Mr. Harris which contained the following resolution:⁷ That the Committee on the Public Lands be instructed to report a bill with provisions for having the boundary lines ceded to the United States by the Creek Treaty, recently ratified, run and marked, and having the same surveyed into sections and quarter sections, preparatory to a sale, and for making an appropriation for defraying the expenses.⁸ Mr. Humphreys remarked that there was already in existence a general law authorizing the surveying of lands, and that an appropriation of money only was necessary for the President to carry the law into effect. Mr. Harris cautioned that, although there might be such a law, the land in question should be immediately surveyed. He said that the people of Tennessee had conquered these lands for the United States and that they should, as soon as possible, have access to the waters of Mobile. This could only be obtained by sale and settlement of these lands. Mr. McKee commented that as soon as the treaty with the Indians was proclaimed, the Committee on Public Lands had turned their attention to this subject. They had decided that no legal provision was necessary to the surveying of these lands, and that an appropriation of money only was necessary for this purpose. In answer to a letter addressed to the Commissioner of the GLO on this subject, Mr. McKee said he had been informed it was first necessary that the boundaries of the Indian lands and those of the United States be surveyed and marked before the remaining lands could be surveyed. Mr. Humphreys moved to amend the motion of Mr. Harris and made the following second resolution:⁹ That the Committee of Ways and Means be instructed to inquire into the necessity and expediency of making an appropriation of money to meet the expenses of surveying the Military Bounty lands and the lands lately ceded by the Creek Indians to the United States in order to be settled by settlers of the United States.¹⁰ Mr. Harris opposed the motion, and said that the law should define the duty of the President beyond any doubt. Although the President had authority to act, Mr. Harris felt that he may not act unless Congress gave him special direction. Mr. McKee responded that no further provision was necessary. The amendment of Mr. Humphreys prevailed, and, as amended, the motion was passed(6).

-House Members Interests

The personal history is not known about Mr. Harris or Mr. Humphreys.

-National Observatory Resolution of 1815

A brief mention should be made of the resolution made by Mr. Nelson on Saturday, February 18, 1815 for the establishment of a First Meridian for the United States. This is important historically, because the public lands initial points were established by astronomic observations. Mr. Nelson read a report on a petition made by William Lambert which contained the following resolution:¹¹ That the President of the United States be requested to cause such further observations to be made by competent persons residing at the Seat of the National Government as may be deemed most proper to determine the longitude of the Capitol, in the City of Washington, with the greatest practicable degree of exactness, and that the data with abstracts of the calculations and the results founded thereon, be laid before Congress at their next session.¹² The resolution was amended and the House concurred(6).

-House Member Interest

No further information is available about Mr. Nelson or the petitioner William Lambert.

-Land Acts of 1818

The intent of the first bill was to give the same powers and duties to a Mississippi territorial surveyor as the territorial surveyor had in the Alabama Territory(4). The House passed this bill on Monday, April 20, 1818. The House also resolved itself into a Committee of the Whole to debate a bill from the Senate entitled," An Act Respecting the Surveying and Sale of the Public Lands in the Alabama Territory." The bill was reported without amendment, read a third time and passed(6).

-House Member Interest

No recorded history was discovered about the supporters of this bill.

In this same session, Mr. Morrow from the Senate Committee on Public Lands,to whom was referred a bill entitled," An act for Changing the Compensation of Receivers and Registers of the Land Offices," reported it without amendment. The bill was considered by the Committee of the Whole, was amended, and the President of the Senate reported this to the House. The amendments were accepted and added to the bill. The bill was then read a third time, as amended, and passed by unanimous consent of the members of the Senate(6).

-Senate Member Interest

Additional information is unknown about Mr. Morrow.

Under the condition of Closing of Business, the House debated two other bills on this date from the Senate after resolving itself into a Committee of the Whole. They debated a bill entitled," An Act Authorizing the Disposal of Certain Lots of Public Ground in the City of New Orleans and Town of Mobile."The bill was reported without amendment, read a third time and passed. A second bill entitled," An Act to Adjust the Claims to Lots in the Town of Vincennes and for the Sale of Land Appropriated as a Common for the Use of the Inhabitants of the Said Town" was reported without amendment, read a third time, and passed by a vote of the members of the House(6).

-House Member Interest

There is a complete lack of information about the supporters of this bill.

-Land Acts of 1820

On Wednesday, April 19, 1820 in the House a debate over a change in the procedures for the sale of the public lands, which had originated in the Senate, took place. This debate ended

in the passage of a bill on Thursday, April 20, 1820. The main purpose of the bill was to reduce the price of public lands from the present price to one dollar and twenty-five cents per acre, and to abolish the Credit System(6). Passage of the Act of April 24, 1820 abolished the Credit System of public land purchase and offered presently reserved public land for sale in half quarter sections(4). It is believed that the debate to abolish the Credit System was very important to future requests for public land surveys, because the settlers usually did not have the money to pay for the land before settlement. During the debate in the House, the bill was supported by Messrs. Anderson, Barbour, Hardin, Sloan and Storrs(6). Opposed to this bill were Messrs. Clay, Brown, Butler of Louisiana, Cook, Hendricks, Jones of Tennessee, and McLean of Kentucky. During the debate, Mr. Sloan of Ohio lead the affirmative view by speaking in support of the bill. He said, "I have been a witness to the operation of the Credit System since its beginning, and the whole debt owed in the triangle northwest of Ohio, which presently composes the states of Ohio, Indiana, and Illinois as well as the territory of Michigan effected by the law, will not exceed three hundred thousand dollars. I am well satisfied with the present Credit System, and feel that the fears of disastrous consequences of a continued Credit System are not well founded." Mr. McLean of Kentucky spoke in opposition to the bill. He said, "the intent of this motion would be better promoted by the disposing of the public lands in such a way as to grant the power to every man, both rich and poor and who wishes to cultivate the soil, the ability to obtain a part of it." Messrs. Hendricks, McLean, Cook, Scott, Crowell, and Butler offered amendments to the bill which did not pass. The bill was ordered to be read a third time Thursday, April 20, 1820 without amendment. On this day, the bill for changing the mode of disposing of the public lands was read a third time and passed. The vote in support of passage of the bill was 133, and against passage was 23(6).

-House Members Interests

Additional personal history is unknown about Mr. Anderson, Mr. Hardin, Mr. Sloan, Mr. Storrs, Mr. Brown, Mr. Cook or Mr. Hendricks.

The second bill debated on this date by the House dealt with state boundaries. A Senate bill, authorizing the designation of the boundary between the states of Indiana and Illinois, was referred to the Committee on Public Lands. Mr. Anderson, a committee member, reported the bill without amendment and then moved that the bill be indefinitely postponed. Mr. Cook moved to lay the bill on the table, but the motion was denied. Mr. Hendricks opposed the indefinite postponement of the bill, and Mr. Anderson advocated it. Finally, Mr. Woodridge made a motion, which was passed, to table the bill. To table a legislative bill is to postpone indefinitely its consideration(9). This is an example of the intense debate which normally occurred during the meetings of the Committee on Public Lands, but rarely on the floor of the Congress(6).

-House Members Interest

No additional history was found about Mr. Woodbridge.

A third public lands surveying bill was debated on establishing land offices. Mr. Anderson from the Committee on Public Lands introduced a bill to establish land offices in the State of Alabama, with amendments to establish a land office in Indiana. The bill with amendments was referred to the Committee of the Whole. A message from the Senate informed the House that the Senate had passed a bill entitled, "An act granting to the State of Ohio the right of preemption to certain quarter sections of land." Preemption is the right to buy land before, or in preference, to others(9). The bill for settling the accounts of several deputy surveyors in the Missouri and Arkansas Territories passed through the Committee of the Whole and was ordered to a third reading. The Committee of the Whole took up for consideration several bills concerning land offices. On a motion by Mr. Cook, one bill was recommended to the Committee on Public Lands. Amendments were attached to this bill which designated the boundaries of districts and established land offices for the disposal of the public lands not previously offered for sale in the States of Alabama and Indiana. This bill was ordered to be read a third time the next session of congress. A bill from the Senate entitled, "To establish additional land offices in the State of Alabama" was ordered to lie on the table, because its provisions had been compromised in a bill to establish additional land offices in Illinois(6).

-House Members Interest

There is a complete lack of recorded history about the debaters of this bill.

A final bill debated by the Senate this day was about land sales. On Monday, April 24, 1820, a message from the House informed the Senate that the House had passed a bill entitled, "An act authorizing the sale of thirteen sections of land, laying within the land district of Canton, in the State of Ohio." The bill was read the second time, and by unanimous consent, was referred to the Committee on Public Lands. The bill, which was introduced to revive the powers of the Commissioners for deciding on the claims to land in the district of Detroit and for settling the claims to land at Green Bay and Prairie du Chien in the Territory of Michigan, was read the second time(6).

-Senate Member Interest

No evidence exists about the supporters of this bill.

-Graduation Bill of 1830

On Saturday, May 29, 1830 the House considered a bill from the Senate to graduate, or reduce, the sale price of the public lands. Mr. Irvin of Ohio moved to lay the bill on the table. He thought there was insufficient time to discuss a subject of such magnitude before the end of the congressional session. Mr. Duncan requested, unsuccessfully, of Mr. Irvin that he withdraw his motion for a short time to allow some explanation of the bill. Mr. Boon called for the yeas and nays on the motion, and Mr. Lewis made an unsuccessful motion for a call of the House. To call the house is to have the Speaker call all members into session so that they can all debate the bill, not just those members who are present(9). The question was taken and the bill was laid on the table with yeas of 82 and nays of 68(7).

-House Members Interests

Information is not available on the personal history of Mr. Duncan or Mr. Boon.

SUMMARY

For Period III there were nine bills researched and a National Observatory Resolution discovered. Action by the Second Bank of the U.S. during the period resulted in a reduction in the money supply available for public land sales. The debate on the Land Act bill of 1815 is an example of the cooperative nature of the exchange of congressional bills which occurs during the congressional debate within the House and the Senate. An effort has been made to give an insight into the intense debate which occurs on some bills.

The bills and resolutions enacted into law and discussed in this paper were the Land Act of 1815, the Creek Indian Lands Resolution of 1815, the National Observatory Resolution of 1815, several land acts of 1818, several land acts of 1820, and the Graduation Bill of 1830. A definition has been given on unfamiliar terms to assist the reader.

CHAPTER IV The Period 1836-1849

INTRODUCTION TO PERIOD

The period began at the peak of the public land sales when revenue from those sales in 1836 exceeded 25 million dollars. It ended on March 3, 1849 when the Congress established the Department of the Interior. There were no major changes in the operation of the GLO made when this new department was created(4).

PRESIDENTIAL INTEREST

-Martin Van Buren

President Martin Van Buren of New York, a member of the Democratic party, served from 1837 to 1841. Martin Van Buren was a lawyer and Andrew Jackson's most trusted advisor. He defended farmers against large landowners as a young lawyer. Van Buren declined an opportunity to negotiate a treaty of annexation with Texas on the premise that Mexico had not recognized the independence of its lost province(1).

-John Tyler

President Tyler of Virginia, a member of the Whig party, served from 1841 to 1845. John Tyler was a lawyer and strongly objected to the distribution of public lands to homesteaders at federal expense. In 1842, he succeeded in forcing Congress to pass a bill for the distribution of the proceeds from the sale of public lands which he later pocket-vetoed to prevent enactment into law. A pocket veto is an indirect veto by the President of a legislative bill when he does not sign and return the bill to Congress within 10 days before Congress adjourns(9). John Tyler was engaged in many bitter struggles with rivals in Congress during his administration(1).

-James Knox Polk

President James Knox Polk of North Carolina, a member of the Democratic party, served from 1845 to 1849. James Polk was a lawyer and throughout his career was devoted to old-fashioned Jeffersonian principles. He served as Speaker of the House from 1835 to 1839. Through the influence of his uncle, Thomas Polk, his family benefited from land speculation. Political insiders in North Carolina, such as Thomas Polk, obtained claims to most of the good lands in what later became the State of Tennessee. In 1806, Polk's family moved to some of these lands on the Tennessee frontier. Ironically, later on in the Lower House of the Tennessee legislature in 1823, James Polk was the leader of the opponents of land speculators. Polk pushed for the annexation of Texas, settled the territorial dispute with Great Britain over Oregon, and added the U.S. Southwest area to the Union by a war with Mexico during his administration(1).

LEGISLATIVE ACTIVITY

-Speaker of the House of Representatives Interest

Robert Mercer Taliaferro Hunter of Virginia served one term from 1839 to 1841. Secretary Hunter was first a Whig party member, then he became a member of the Democratic party. However, regardless of party affiliation, he was always an advocate of state's rights. He was influenced in his political philosophy by his close association with John C. Calhoun. Robert Hunter was a large, reserved and dignified man, an able debater, and a real power in the Democratic party(1).

-Resolution to Suspend the "General Rule" Attempt of 1836

On Monday, July 4, 1836, the Senate debated a resolution which, if adopted, would have suspended the "general rule" of the Senate. Mr. Franklin, the Clerk of the House, said that the House had suspended the seventeenth joint rule of the two Houses of Congress which declared that no bill shall be sent to the President for his signature on the last day of the session until two o'clock. Mr. Calhoun said that the President had no opportunity to examine a number of bills before the end of the recent congressional session. The reason for this congressional debate included, among other bills, the final required Presidential signature of a land bill to confirm certain land claims in Missouri. According to Calhoun, the resolution to suspend the "general rule" required the unanimous consent of the Senators present during the debate. Mr. Walker of Pennsylvania asked the Senate to consider whether certain bills ought to be exempted from the "general rule". He referred to a bill which had passed the Senate two months previously. The bill was reported on formally by the Committee on Public Lands and unanimously accepted as approved. It had the support of its Committee Chairman, Mr. Ewing of Ohio. However, no action had been taken by the President, because the Senate had not sent the bill to him for his examination. Walker stated that he was anxious to have this bill become law, because the bill would carry into effect the agreement between the United States and the States of Alabama and Mississippi designating sixteenth sections as school lands. Walker further emphasized that he did not wish the "general rule" to be suspended for the enactment of any bill to which there was the slightest objection. Mr. Black read a list of bills which he felt should be sent to the President under the proposed resolution. The Senate Chairman stated that he would be guided by another Senate rule. That rule said that no bill or resolution should be sent to the President on the last day of the session. He said that the Chair felt bound to sign the bills, and in the meantime anyone who wanted might appeal his decision. The debate on the resolution to suspend the "general rule" was not supported by a vote of the members of the Senate(7).

-Senate Members Interests

Additional personal history about Mr. Black was not found.

John Caldwell Calhoun of South Carolina was in the cabinet of both President Monroe and President Tyler. He was the Secretary of War in President Monroe's cabinet. Secretary

Calhoun contributed significantly to the extension of the western frontier. As Secretary of State in President Tyler's administration, he arranged for the annexation of Texas. Calhoun was a strong advocate of state's rights(1).

Robert John Walker of Pennsylvania was typical of the many statesmen of the middle period of American history in his avowed advocacy of sectional interests. He favored the award of public lands to the states and supported the cause of preemption(1). An ardent expansionist, Robert Walker enthusiastically supported the annexation of Texas. He was a sponsor of the bill for the creation of the Department of the Interior. As a private citizen, Walker was heavily involved in land speculation. Robert Walker supported the annexation of Alaska with the same enthusiasm that he had supported the acquisition of Texas(1).

Thomas Ewing of Ohio was a Whig. Like John Calhoun, he also served in the cabinet during two administrations. President Harrison appointed him Secretary of the Treasury in 1841, which may have occurred because of his experience as Chairman of the Committee on Public Lands at an earlier time. In 1849, President Taylor appointed Ewing the first Secretary of the Interior. Secretary Ewing favored the unconditional admission of California as a state(1).

-Land Act of 1840

In the Senate on Friday, June 12, 1840, Mr. Clay from the Committee on the Public Lands reported a bill supplemental to an act entitled, 'An act for the closing of the Office of Surveyor General in the several districts as soon as the surveys are completed, for abolishing land offices under certain circumstances, and for other purposes' without amendment. No action was taken by the Senate on this bill at this time(8)

-Senate Member Interest

My research failed to discover any personal history about Mr. Clay.

-Land Act of 1841 Amendment Attempt

The debate on this bill began on Saturday, September 4, 1841 and continued to the next Senate session on September 6, 1841. The debate ended in the passage of the General Preemptive Act which provided for the distribution of the proceeds from public land sales to public land states(4). This bill was the cause of much debate. The debate on the first day centered on the amendment to a bill from the House making appropriations for the purchase of military weapons and supplies. Mr. Allen moved to amend the bill to take the appropriation of money from the proceeds of the sales of the public lands by the Treasury Department. Mr. Smith of Indiana disagreed. He asked the members present if they would ever cease assaulting the land distribution bill. Smith said that there never had been a bill so long and so desperately contested by the Senate opposition with every amendment having been voted down. To emphasize his point he said that he had heard Mr. Calhoun personally ask the President to veto this bill. Mr. Allen added that the distribution bill would neither pay off federal loans, nor provide additional tax revenue. Allen said that his side of the Senate meant to repeal the

Distribution Law ,because he felt the people had been burdened by this bill which only benefitted foreigners. Mr. Walker reminded the Senate that the Distribution Bill was not yet signed and that no bill that violated the spirit of a compromise agreed to between the House and the Senate would receive the approval of the President. The Senate decided not to accept the amendment(8).

-Senate Members Interests

Nothing further is known about Mr. Allen. Mr. Smith represented a public land state and consequently, it is believed that he had a personal interest in public land sales issues.

-General Land Office Document 104 Resolution Attempt of 1841

On Monday, September 6, 1841, the debate over the impact of the General Preemptive Act with the distribution of proceeds provision continued from the last session of the Senate. Mr. Benton submitted a resolution directing the Secretary of the Senate to send to the President a copy of General Land Office(GLO) Document 104 relating to the quantities of land surveyed and withheld from sale. Benton said it appeared to him from his reading of this document that there were eight million-five hundred thousand acres of land already prepared for sale, and not yet brought into the sales market. In his opinion, if the President was made aware of this great amount of land already for sale, he would order some of it to be brought into the market in order to relieve the Treasury of a portion of its debt. Mr. Smith thought the motion was disrespectful and moved to lay it on the table. Mr. Clay of Alabama asked the Senator to withdraw this motion for a moment and proceeded to say that he believed the lands were being withheld, because the states may get a greater quantity of land under the Distribution Law. Mr. Clay of Kentucky said that there were valid reasons why these lands had been withheld, and that the principal reason was to favor the principle of preemption. Clay said that the supporters of preemption were afraid that land speculators would buy up the good lands before they could. Mr. Benton said that the reason given by the Commissioner of the GLO was authentic, and that the Commissioner had told him that the lands had not been withheld in accordance with any request from preemptors. Mr. Walker was opposed to having the lands in Mississippi offered for sale before Mississippi had selected its 5000 acres under its right of preemption. Walker was afraid that the best lands in Mississippi would be purchased by the speculators. Mr. Smith of Indiana said that the lands had been withheld from sale for the best of reasons. He believed that in most instances, because they had not been attached to any land district, the President had no power to proclaim these lands for sale. Smith said it was well known that there had been a very great excess of lands over the demand for public lands brought into the market in the past, and that the President had nothing to do with this situation. The resolution was laid on the table(8).

-Senate Member Interest

Thomas Hart Benton of North Carolina was an advocate of the Jacksonian movement. He was a constant champion of cheap land which he felt would help provide a greater opportunity for many additional settlers to become more useful and productive citizens. Benton was a

dramatic spokesman for westward expansion and voiced a "manifest destiny" for the American people. He rejected unilateral annexation of Mexican territory, and supported President Polk's withdrawal from the demand for an Oregon boundary of 54 degrees and 40 minutes of Latitude. Thomas Benton was a supporter of bonafide national improvements, especially in the West(1).

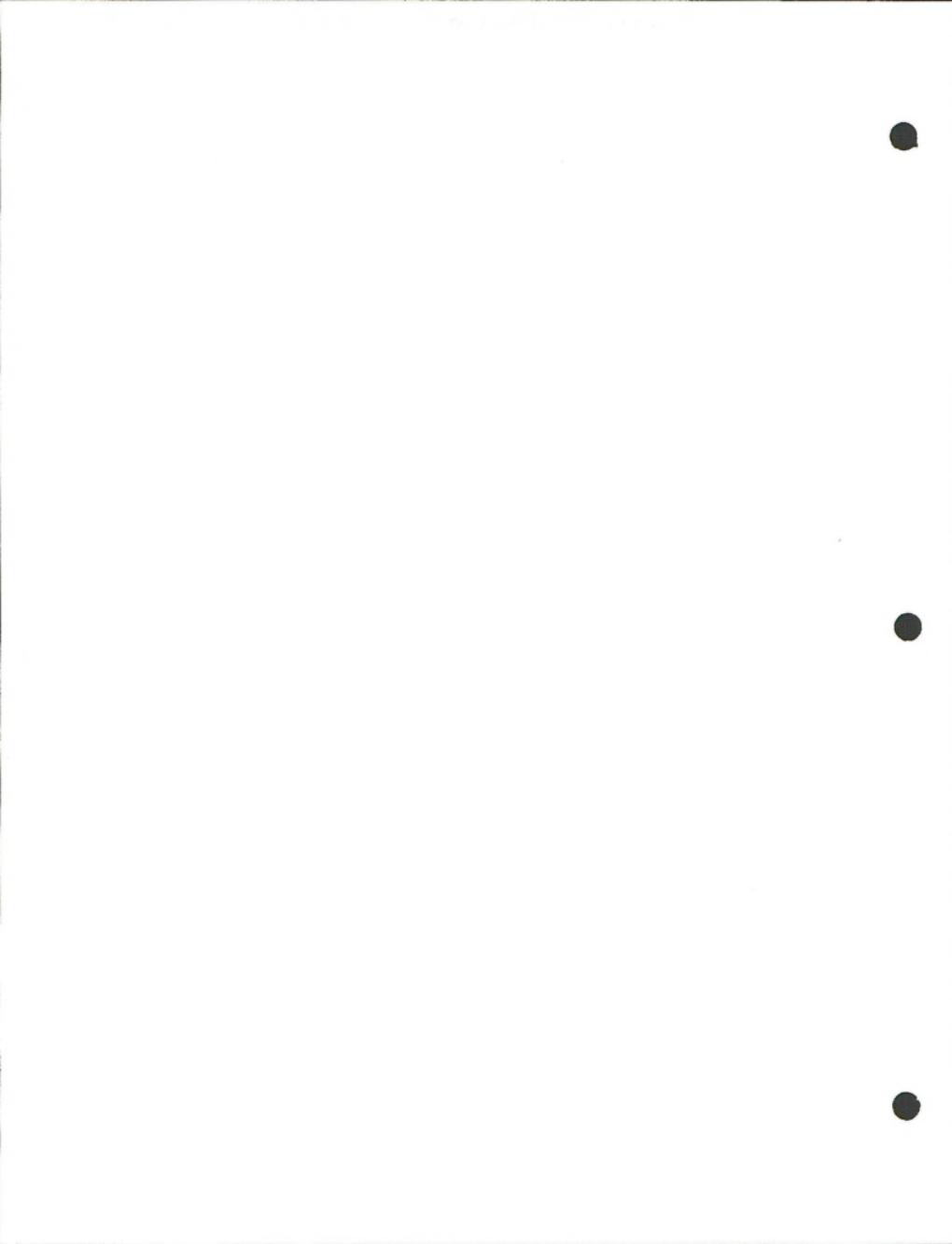
SUMMARY

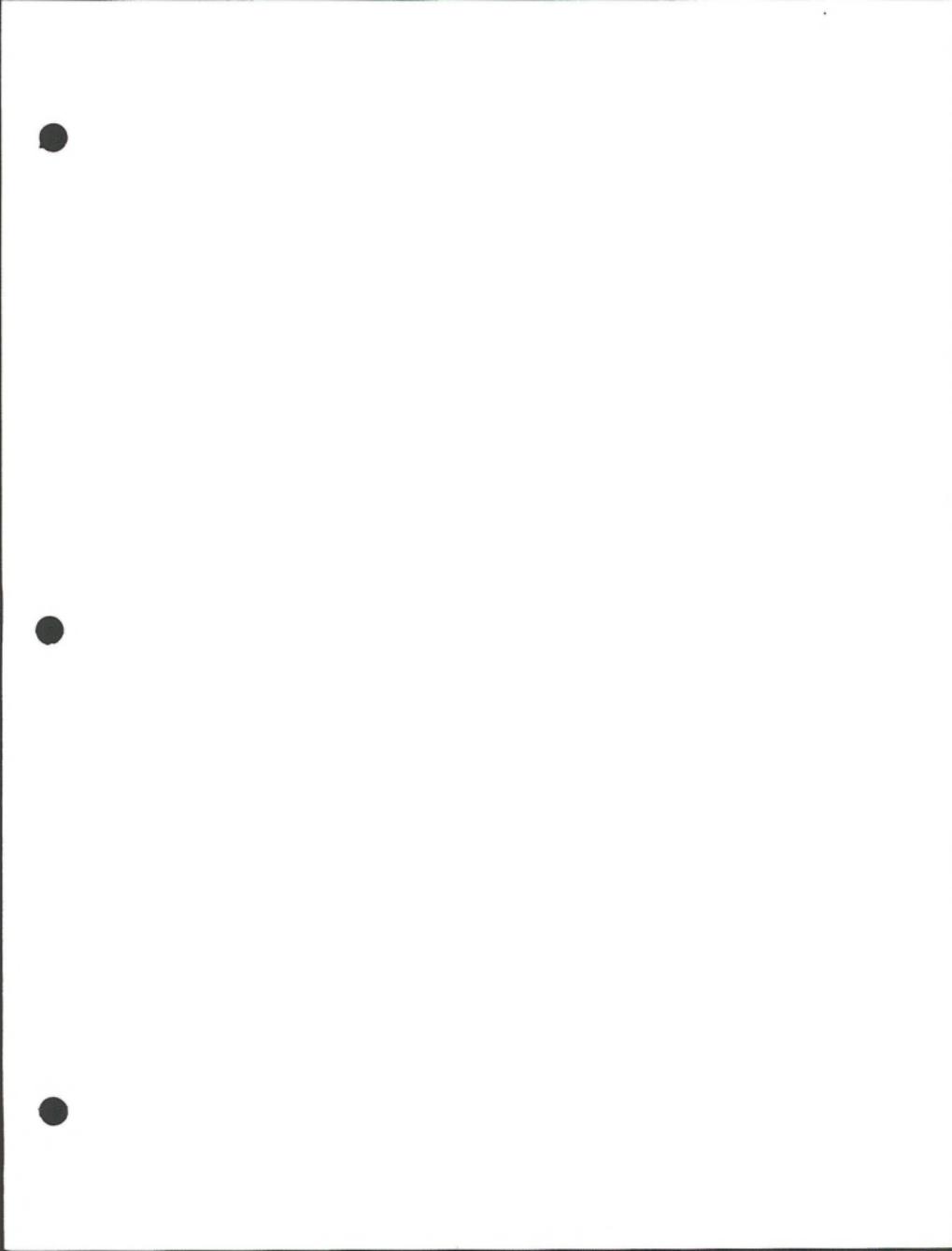
For Period IV there were five bills researched and one resolution on the General Land Office Document 104 discovered. The main tone of this legislation was one of confrontation between the members during the Senate and House debates. A common desire expressed by the proponents of these bills was to take away the land rights of foreigners, who were the new settlers of the frontier, and to return to the days of public land speculation. The bills discussed are examples of this confrontation. The end result of all the debate and voting was that common sense prevailed, and the settlers retained their right to acquire public land through public land sales.

The bills discussed in this paper were the Resolution to Suspend the General Rule Attempt of 1836, the Land Act of 1840, the Land Act of 1841 Amendment Attempt, and the General Land Office Document 104 Resolution Attempt of 1841.

REFERENCES

- (1) THE ENCYCLOPEDIA AMERICANA INTERNATIONAL EDITION, Americana Corporation, 1980
- (2) ENCYCLOPEDIA ALMANAC, The New York Times, 1970
- (3) PAPERS OF THE CONTINENTAL CONGRESS, No 19, III, Folio 623
- (4) A HISTORY OF THE RECTANGULAR SURVEY SYSTEM, Library of Congress, C.Albert White
- (5) THE WORLD BOOK ENCYCLOPEDIA, Field Enterprises Educational Corporation, 1973
- (6) ANNALS OF CONGRESS, 1800-1837
- (7) GALES AND SEATON'S REGISTER OF DEBATES IN CONGRESS(8) CONGRESSIONAL GLOBE, SKETCHES OF DEBATES AND PROCEEDINGS, 1833-1870
- (9) WEBSTER'S NEW WORLD DICTIONARY, Third College Edition, Simon & Schuster, Inc 1988





BLM LIBRARY
RS 150A BLDG. 50
DENVER FEDERAL CENTER
P.O. BOX 25047
DENVER, CO 80225